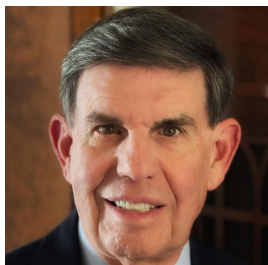


## [Choosing a Mediator vs. Choosing an Arbitrator](#)



While articles on Alternative Dispute Resolution often conflate mediation and arbitration, these are actually significantly different methods of resolving cases outside of the court system. While both are effective at efficiently resolving disputes, as the lines between these ADR methods are blurred, there is often confusion in the process of selecting the best person to assist the parties in reaching the goal. Give some thought to the skills necessary in each role.

Without question, a mediator or arbitrator should be someone whom both sides trust will provide a fair and honest view of the facts and law involved. Both roles require a person with experience in the type of case presented, knowledge of the elements of the cause of action, and the ability to recognize the key facts and legal issues. .

Arbitrations will most frequently involve a hybrid mix of live or deposition testimony, combined with documentary evidence admitted into evidence under the predetermined rules for the arbitration. An obvious benefit of arbitrations over an actual trial is that the parties can agree in advance what rules of procedure and evidence will be applicable and arbitrations almost always include a relaxation of the evidentiary rules governing the admissibility of documents. Medical records, employment records, and even expert reports are usually admitted by agreement.

Your arbitrator should be someone who will read all of the documentary evidence presented and listen carefully to the testimony and arguments made at the hearing. Like any juror, the arbitrator will bring his or her background and general knowledge to the case and no one, not even a retired judge, can totally eliminate his or her prior life experiences from how the evidence is viewed. But an arbitrator is acting as both a judge and jury for your case, and he or she will arrive at an opinion based on reading the documents and listening to the evidence. You have to trust that the person selected will render an award based on his or her honest assessment of the facts and reports presented.

Mediation is so different. While an arbitrator can sit back, listen, and ultimately render a binding award, a mediator has to work hard to get all parties to come to an agreement to resolve the matter. You should submit substantive materials to the mediator well in advance of the mediation. Give the mediator the best possible opportunity to read, review, study, and fully understand the issues in the case. This means submitting not only a mediation memorandum but also key evidence and reports, including expert reports, on both liability and damages. [READ MORE](#)

**To schedule a mediation or arbitration with [Attorney Larrimore](#) or any of our [neutrals](#), please email [mcarney@adroptions.com](mailto:mcarney@adroptions.com) or click below:**

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